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10/526,493	03/30/2006	Ibrahim H. Ibrahim	22409-00360	7351

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KILPATRICK STOCKTON LLP  
1100 Peachtree Street  
Suite 2800  
ATLANTA, GA 30309

EXAMINER
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DIETRICH, JOSEPH M

ART UNIT	PAPER NUMBER
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3762

NOTIFICATION DATE	DELIVERY MODE
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11/10/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipefiling@kilpatrickstockton.com  
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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed October 7, 2010 have been fully considered but they are not persuasive.

In response to applicant's argument that the proposed combination of Jeutter and Kung would render the prior art invention unsatisfactory for its intended purpose, examiner disagrees. It is reminded that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In the present case, the combination does not imply that both the implantable devices which generate a magnetic field as taught by Jeutter or Cheng combined with the external devices which generate a magnetic field as taught by Kung. Instead, the combination indicates that it would be obvious to combine means for measuring the strength of a magnetic field as taught by Jeutter or Cheng with an external device that can generate a magnetic field and an internal device that can sense a magnetic field and determine a parameter of said field as taught by Kung, since such a modification would provide the predictable results of allowing a physician or a technician to easily access the magnetic field generator and thus more easily perform maintenance on the generator. Thus, the combination does not render the system of Jeutter or Cheng inoperable.

Art Unit: 3762

In response to applicant's argument that measuring the strength of a magnetic field proximal to the external transceiver, examiner disagrees. Kung teaches it is known that the magnetic field is proximal to the external transceiver (e.g. column 19, lines 50 – 60).

In response to applicant's argument that it would not have been obvious to determine that the device is displaced when a measured strength is greater than a threshold value, examiner disagrees. As noted in the rejection, Chen teaches determining that a device is displaced when a measured strength is less than a threshold value. Because this determining is done for the same purpose and solves the same problem, the claim fails to patentably distinguish over Chen. Furthermore, as indicated in the rejection, processors that determine a difference between a desired value and a measured value are well known in the art. In such a case, the difference is compared against a threshold to determine if it is greater than a threshold value. Such a processor is taught in Jeutter in column 4, line 63 – column 5, line 3.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Dietrich whose telephone number is (571)270-1895. The examiner can normally be reached on M-F, 8:00 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Niketa Patel can be reached on 571-272-4156. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3762

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/J. M. D./  
Examiner, Art Unit 3762

/Scott M. Getzow/  
Primary Examiner, Art Unit 3762